



## Legislation Details (With Text)

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**File created:** 3/8/2017    **In control:** City Council  
**On agenda:** 3/21/2017    **Final action:** 3/21/2017  
**Title:** Resolution Authorizing City Attorney to Institute Proceedings to Condemn a Portion of the Property of Diering Properties, LLC Located at 3225 Battleground Avenue in Connection with the Battleground Westridge Intersection Improvement Project

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Sitemap 1335 (3225 Battleground Ave), 2. Vicinity 1335 (3225 Battleground Ave), 3. NC Sec of State- Diering Properties, 4. 17-0175 Diering-resolution

Date	Ver.	Action By	Action	Result
3/21/2017	1	City Council	adopt	Pass

Resolution Authorizing City Attorney to Institute Proceedings to Condemn a Portion of the Property of Diering Properties, LLC Located at 3225 Battleground Avenue in Connection with the Battleground Westridge Intersection Improvement Project

Department: Legal  
Council District: 4

Public Hearing: NA  
Advertising Date/By: NA

Contact 1 and Phone: Kenney McDowell, E & I, ext. 2302  
Contact 2 and Phone: John P. Roseboro, Assistant City Attorney, ext. 2320

**PURPOSE:** The City seeks to acquire a proposed Margin Tract containing 197 square feet, a proposed Permanent Drainage Easement (PDE) containing 514 square feet, and a proposed Temporary Construction Easement (TCE) containing 325 square feet of the property owned by Diering Properties, LLC located at 3225 Battleground Avenue, designated as Parcel # 0036449 in the Morehead /Gilmer Township for the Battleground Westridge Intersection Improvement Project. The Property Management Section of the Engineering and Inspections Department (PM) requests Council to authorize the initiation of condemnation proceedings because it has been unable to negotiate a purchase price with the property owner(s).

**BACKGROUND:** PM attempted to negotiate a purchase within the total appraised value of \$12,300.00 for the property. An independent appraiser, Steven C Randall, Certified General Real Estate Appraiser, A5784, calculated the value of the property for the City. The appraiser used generally accepted appraisal methods and calculated the value based upon the nature of the taking and the square footage taken. PM sent an initial written Offer to Purchase to the property owner(s) on April 28, 2016. PM spoke with the property owner on

multiple occasions to discuss the design and offer. The property owner rejected the offer and declined to make a counteroffer. PM made every reasonable effort to purchase the property within the appraised amount, but its efforts were not successful. Therefore, PM recommends that the City Council adopt a resolution authorizing the City Attorney to institute proceedings to condemn the required property. Following City Council's approval, the Legal Department will send a letter to the owner giving him a thirty (30) day notice of the City's intent to file an eminent domain lawsuit. After the lawsuit is filed and discovery is completed, a mediation or Commissioner's Hearing, or both, are held to try to resolve the matter with the property owner before trial. Additionally, the parties are free to continue negotiations through the date of trial.

The Greensboro Department of Transportation approved the Roadway Intersection and Sidewalk Improvement on Battleground Avenue and Westridge Road. This project will improve the roadway intersection for better traffic flow and improve pedestrian walkways.

The acquisition necessary for this property is a proposed Margin Tract containing 197 square feet, a proposed Permanent Drainage Easement (PDE) containing 514 square feet, and a proposed Temporary Construction Easement (TCE) containing 325 square feet for the property located at 3225 Battleground Avenue.

The anticipated date for start of construction is September, 2017, with an anticipated completion date of September, 2018. The property is zoned C-M (Commercial- Medium).

City staff further recommends that the City Council authorize payment of the estimated amount of the value of the properties to the Clerk of Superior Court for disbursement to the owner. This will allow the City to take possession, which is required before work for this Project can commence on the properties.

**BUDGET IMPACT:** The funding for this condemnation is budgeted in Account Number 220-4588-01.6012, Activity #A12084. The funding comes from the North Carolina Department of Transportation Grant Street Improvement Fund. A minimum of \$12,300.00 will be expended to acquire this property, in addition to any litigation costs and/or settlement agreements.

**RECOMMENDATION / ACTION REQUESTED:** City Council approval of a resolution authorizing the City Attorney to institute proceedings to condemn a portion of the property of Diering Properties, LLC in connection with the Battleground Westridge Intersection Project.